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**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

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BRIAN COSTIGAN, individually and on behalf  
of a class of all others similarly situated,

Plaintiff,

10 CIVIL 8776 (SAS)

-against-

**JUDGMENT**

CITIMORTGAGE, INC.,

Defendant.

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Defendant Citimortgage, Inc. ("Citi"), having moved to dismiss all claims pursuant to Fed. R. Civ. P. 12(b)(6) for failure to state a claim, and the matter having come before the Honorable Shira A. Scheindlin, United States District Judge, and the Court, on August 1, 2011, having rendered its Opinion and Order granting Citi's motion to dismiss without prejudice as to Costigan's claims for (i) breach of contract of the original mortgage agreements, (ii) fraud, (iii) negligent misrepresentation, and (iv) violation of the CFA, granting Citi's motion with prejudice as to Costigan's claims for (i) breach of SPA and the TPP agreements, (ii) promissory estoppel, (iii) breach of the covenant of good faith and fair dealing, (iv) negligence, (v) violation of the DPA, and (vi) violation of the FDCPA, and directing the Clerk of the Court to close the case, if Costigan does not file an amended complaint within thirty (30) days of the Opinion and Order dated August 1, 2011, it is,

**ORDERED, ADJUDGED AND DECREED:** That for the reasons stated in the Court's Opinion and Order dated August 1, 2011, and no amended complaint having been filed to date, Citi's motion to dismiss is granted without prejudice as to Costigan's claims for (I) breach of contract of the original mortgage agreements, (ii) fraud, (iii) negligent misrepresentation,

and (iv) violation of the CFA. Citi's motion to dismiss is granted with prejudice as to Costigan's claims for (breach of the SPA and the TPP agreements, (ii) promissory estoppel, (iii) breach of the covenant of good faith and fair dealing, (iv) negligence, (v) violation of the DPA, and (vi) violation of the FDCPA; accordingly, the case is closed.

**Dated:** New York, New York  
September 8, 2011

**RUBY J. KRAJICK**

Clerk of Court

BY:

Deputy Clerk

THIS DOCUMENT WAS ENTERED  
ON THE DOCKET ON \_\_\_\_\_